

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA-2706-2015

Date of Decision: May 23, 2018

Bhanu Mal (Atta Chaki) through its proprietor Mahabir

...Appellant

Versus

Uttar Haryana Bijli Vitran Nigam and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sachin Gupta Ladwa, Advocate,
for the appellant.

ARUN PALLI, J. (ORAL)

Suit filed by the appellant-plaintiff was dismissed by the Trial Court, vide judgment and decree, dated 16.10.2012. As even the appeal preferred against the said decree failed and was dismissed on 10.11.2014, the appellant-plaintiff is in Regular Second Appeal before this Court. The parties to the *lis*, hereinafter shall be referred to their original positions in the suit.

The plaintiff prayed for a declaration that Memo. No. 2040, dated 29.11.2002, & Bill No. 9594, dated 29.11.2002, issued by defendant No. 2, demanding a sum of Rs.1,20,596/-, as also action of the defendants in recovering the said amount by coercive method, was illegal, null and void. Further, the defendants be directed to refund the said amount.

On a consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that the premises of the

plaintiff were inspected by the officials of the defendants on 26.11.2002. Copy of the checking report, was proved on record as Ex.D1. Deepak Popli, Xen Operation, DW-1, who conducted the inspection, proved his report that testified; ***“(i) Meter disc does not move at light load of 7.50W when tested with a ball type heater. Meter to be replaced. (ii) New meter to be installed in standard MCB. (iii) Joints in-incoming cable (inside consumer’s premises) should be removed. (iv) Removed meter be sent to M&T Lab for verifying genuineness of M&T seals & accuracy of energy meter.”*** None other than Mahavir, PW-1, through whom the present suit was instituted, conceded in his cross-examination that the vigilance team had prepared the inspection report Ex.D1, which was also signed by his uncle. Officials of the defendants had removed the meter, which was replaced with a new meter. Further, the meter was checked in M&T Laboratory, Dhulkot, and during this process, representative of the plaintiff, namely, Pawan Kumar, was present. The meter inspection report, Ex.D2, was duly proved by S.K. Madaan, DW-2, who testified in his deposition that two of the seals of the meter were fake, and it was on the basis of report Ex.D2, the department had raised the demand by way of impugned bills. The plea that in terms of the circular Ex.PX, the department was required to install a check meter, parallel to the meter installed at the premises of the consumer, to observe the pattern of consumption recorded by both the meters, and since that was not done, the demand was unjustified, was also rejected. For the circular Ex.PX, was issued to ensure correctness of the meter and the consumption recorded therein, while deciding the theft cases, in case of broken and tampered seals.

In the present case, the seals were rather intact, but were found to be fake, as

proved in terms of the report Ex.D2. Further, a checked meter is installed only where the consumer so desires in writing. But in the matter at hands, no such request, either in writing or orally, was ever advanced. No such plea was set up either by the plaintiff even in the departmental appeal Ex.P5, filed before the Xen. against the impugned demand. That being so, the only and the inevitable conclusion that could be reached was: the suit filed by the plaintiff was wholly devoid of merit.

On being pointedly asked, learned counsel for the appellant-plaintiff could not refer to anything on record to show if the conclusions arrived at by both the Courts were either contrary to the position on record or suffered from any material illegality.

No question of law, much less any substantial question of law arises for consideration. The appeal being devoid of merit, is accordingly dismissed.

(ARUN PALLI)
JUDGE

May 23, 2018

Pkapoor

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO